

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PAUL SALAMONE

Plaintiff,

v.

ARAMARK FACILITY SERVICE, INC., and
RED ROBIN INTERNATIONAL, INC.,

Defendants,

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C.A. No.:

NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §1441

Defendant Aramark Facility Service, Inc. (hereinafter “Aramark” or “Defendant”) pursuant to 28 U.S.C. §§ 1441 and 1446, hereby submits notice to the United States District Court for the District of Massachusetts of the removal of the above entitled action to this Court based upon diversity of citizenship and the amount in controversy.

As grounds herefor, Defendant states the following:

1. The Defendant described herein is a defendant in a civil action between the above-stated parties currently pending in the Massachusetts Superior Court for Bristol County under Civil Action Number 2173-CV-00108.

2. The Defendant received service of the Complaint in the Superior Court action on February 15, 2021, and is commencing removal within the 30-day period for doing so, pursuant to 28 U.S.C. § 1446. A copy of the Summons, Complaint, and Proof of Service are attached hereto as Exhibit A.

3. Aramark served the Plaintiff with requests for admissions and it received Plaintiff's responses to its requests for admissions on April 7, 2021. *See* Requests for Admission attached hereto as Exhibit B.

3. The Plaintiff, Paul Salamone, is a resident of the Commonwealth of Massachusetts.

4. The Defendant is incorporated in Delaware and maintains its principal place of business in Pennsylvania.

5. The Defendant, Red Robin International, Inc. is incorporated in Nevada and has a principal place of business in Colorado.

6. The Complaint alleges that Plaintiff was injured when he tripped and fell while in a restaurant located at 2421 Cranberry Highway, Suite 350 in Wareham, Massachusetts.

6.. The United States District Court has diversity jurisdiction over this case pursuant to 28 U.S.C. 1332, because: 1) Plaintiff is a citizen, resident and domiciliary of the Commonwealth of Massachusetts and Aramark is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in the Commonwealth of Pennsylvania; and 2) the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. According his responses to Defendant's requests for admissions (and attached as Exhibit B), Plaintiff alleges damages in an amount that exceeds \$75,000.00.

7. Complete diversity of citizenship exists between the parties and removal is proper pursuant to 28 U.S.C. § 1441.

8. 28 U.S.C. §1446(b) reads, in pertinent part, that:

Except as set forth in subsection (c),¹ if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

¹ 28 U.S.C. §1446(c) requires removal based on diversity jurisdiction take place within one (1) year after commencement of the action.

9. This Notice of Removal is timely under 28 U.S.C. §1446(b) as it is filed within thirty (30) days after notice that removal is proper.

10. All of the pleadings filed in the pending State Court action are attached hereto as Exhibit C.

WHEREFORE, the above action now pending against Defendants in the Massachusetts Superior Court, Bristol County, is removed therefrom to this Honorable Court.

Defendant,
Aramark Facility Service, Inc.,
By its attorneys,

Date: May 5, 2021

/s/David A. Brosnihan
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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on May 5, 2021, I electronically filed this document with the Clerk of Court using the CM/ECF system, which will send notification of such filings(s) to the attorneys designated below as ECF recipients, and I hereby certify that on the same date, I have mailed, via United States Postal Service, the document(s) to the non-registered participants reflected below as being provided copies by mail.

Michael F. Suarez, Esq.
Law Office of Michael F. Suarez
258 Main Street, Suite D-2
Buzzards Bay, MA 02532

/s/David A. Brosnihan
David A. Brosnihan